

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-14 and 23-30 are currently pending in this application. Claims 3, 5, 9-12, 24, and 28-29 are withdrawn from further consideration. It is submitted that the withdrawn claims should be reconsidered and reintroduced into the application when the independent claims from which they depend are found allowable.

Claims 1, 2, 4, 6, 7, 8, 13, 14, 23, 25-27 and 30 have been amended in this response. Support for this amendment can be found throughout the application as originally filed. No new matter has been introduced by this amendment.

II. REJECTIONS UNDER 35 U.S.C. §§ 101 & 112

Claims 1, 2, 4, 6-8, 13, 14, 23, 25-27 and 30 were rejected under 35 U.S. C. §101 as being directed to non-statutory subject matter.

Claims 1, 2, 4, 6-8, 13, 14, 23, 25-27 and 30 were rejected under 35 U.S. C. §112, second paragraph, as being indefinite.

These claims have been amended to claim *inter alia* a support fabric for use in a hydroentangling process, thereby obviating the §§101 and 112 rejections.

III. REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 1-2, 4, 6, 23, and 25-27 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 3,110,905 to Rhodes, in view of, U.S. Patent No. 6,060,145 to Smith.

In the Response to Arguments section of the Action, the Examiner contends that Rhodes and Smith's tufted fabric can be used on a hydroentangling machine and is capable of performing the intended use. Applicants respectfully disagree.

Applicants submit that implementing in a hydroentangling process a fabric which incorporates flattened filaments improves the resulting nonwoven product. In particular, the instant invention reduces entangling of fibers to the fabric surface and improves reflection (or "flashback") of water jets. Furthermore, the invention improves release of the fiber web from the hydroentangling fabric after entangling and improves MD/CD tensile ratios. More specifically, release of the fiber web from the hydroentangling fabric improves such that the draw is reduced from about 8% to 0%, and that the MD/CD ratio improvement is about 10% to 40%. *Instant Application*, paragraph 0039. Applicants respectfully submit that the tufted fabric of Rhodes and/or Smith cannot result in these effects mainly because they are "tufted." A tufted fabric has fibers protruding perpendicular to the plane of the fabric, and therefore cannot improve release of the fiber web from the hydroentangling fabric after entangling. Any person of ordinary skill in the art will well appreciate this fact.

Therefore, Applicants respectfully submit that there is no teaching or suggestion in either Rhode or Smith for the use of a support fabric for use in a hydroentangling device comprising flat filaments, as recited in independent claim 1.

Therefore, Applicants submit that independent claim 1 is patentable over the combination of Rhodes and Smith and respectfully request the withdrawal of the rejection. Since claim 23 is similar in scope, independent claim 23 is also patentable over this combination.

Dependent claims 2, 4, 6-8, 13-14, 25-27, and 30 depend from either claim 1 or claim 23 discussed above, and are therefore patentable over the combination of Rhodes and Smith.

Claims 1, 6, 13-14, 23, 25-27 and 30 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 5,142,752 to Greenway, in view of U.S. Patent No. 4,345,730 to Luvelink. These rejections are traversed at least for the following reasons.

As to the combination of Greenway and Luvelink, the Examiner combines these references merely because Greenway uses the term “hydroentangling” and Luvelink discloses that its spiral-link fabric can be formed of “flat filaments.” Applicants respectfully submit that there is no motivation for one skilled in the art to combine these references, because Luvelink relates to a spiral-link belt for use in a papermaking machine with no relevance to hydroentangling machines.

MPEP §2145(X)(c) states:

As discussed in MPEP §2143.01, **there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine reference teachings.** The Federal Circuit has produced a number of decisions overturning obviousness rejections due to a lack of suggestion in the prior art of the desirability of combining references, as discussed in the aforementioned section. (Emphasis added)

The motivation or teaching to make the claimed combination by modifying or combining prior art references must be found in the prior art and not in the Applicant’s disclosure. *In re Vaeck*, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Applicants submit that there is nothing that would

motivate a skilled worker in the art to modify the teachings of Greenway in view of Luvelink, when Greenway lacks the very motivation to do so.

Applicants respectfully submit that *impermissible hindsight* reconstruction of the claimed invention using elements of the prior art is *not* allowed under 35 U.S.C. §103 (see MPEP §2142 for a discussion of impermissible hindsight).

Furthermore, MPEP §2143.01(III) states:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990) (Emphasis in original.)

Applicants respectfully submit that the Office Action has merely created a mosaic of features from the prior art, without either a clear motivation or a suggestion of the desirability of the combination.

Additionally, MPEP §2143.01(IV) states:

A statement that modifications of the prior art to meet the claimed invention would have been "well within the ordinary skill of the art at the time the claimed invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). (Emphasis added)

As noted above, the Office Action has merely provided references to teach individual aspects of the claimed invention in total isolation, and has not established a *prima facie* case of obvious. The Office Action has failed to provide an objective reason to *combine* the disparate and unrelated teachings of the references into the claimed combination.

Therefore, Applicants respectfully submit that claim 1 patentably distinguishes over the combination of Greenway and Luvelink, and therefore should be allowed. For similar reasons independent claim 23 is also allowable.

Dependent claims 2, 4, 6-8, 13-14, 25-27, and 30 depend from either claim 1 or claim 23, as discussed above, and are similarly patentable over the combination of Greenway and Leuvelink.

In the event that the Examiner disagrees with any of the foregoing comments concerning the disclosures in the cited prior art, it is requested that the Examiner indicate where in the reference, there is the basis for a contrary view.

The Examiner has apparently made of record, but not applied, several documents. The Applicants appreciate the Examiner's implicit finding that these documents, whether considered alone or in combination with others, do not render the claims of the present application unpatentable.

CONCLUSION

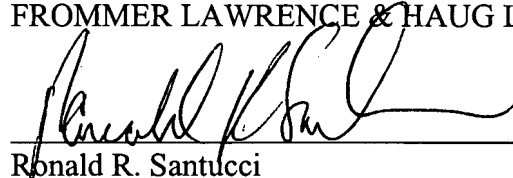
In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable over the prior art, and early and favorable consideration thereof is solicited.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

If any issues remain, or if the Examiner has any further suggestions, the Examiner is invited to call the undersigned at the telephone number provided below. The Examiner's consideration of this matter is gratefully acknowledged.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By:

A handwritten signature in dark ink, appearing to read "Ronald R. Santucci", is written over a horizontal line.

Ronald R. Santucci

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